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ATTORNEYS FOR DEFENDANTS

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

AUSTIN W. DUROSE, by and through his )  
Next Friends and Natural Parents, )  
William K. and Mindy E. DuRose, WILLIAM )  
K. DUROSE, and MINDY E. DUROSE, )

Plaintiffs, )

vs. )

Case No.: 13-CV-216-S

POWELL VALLEY HEALTHCARE, INC., )  
POWELL HOSPITAL DISTRICT NO. 1, )  
POWELL VALLEY HOSPITAL, JEFFERY )  
HANSEN, M.D., AND JOHN DOES 1 THROUGH )  
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Defendants. )

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**SECOND STIPULATED MOTION TO VACATE PRETRIAL DEADLINES AND  
TRIAL**

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**COMES NOW** Defendants, Powell Valley Healthcare, Inc., Powell Hospital District No. 1, and Powell Valley Hospital by and through its undersigned counsel of Williams, Porter, Day & Neville, P.C.; Defendant Jeffery Hansen, M.D. by and through his undersigned counsel of Crowley Fleck, PLLP; and Plaintiffs Austin DuRose by and through his Next Friends and Natural Parents

William K. DuRose and Mindy E. DuRose, William K. DuRose and Mindy E. DuRose, individually, by and through undersigned counsel of Moyers Law P.C. and Bogue Paoli & Thomas LLC (hereinafter collectively referred to as “Parties”) hereby stipulate and move this Court for its *Order* vacating the pretrial deadlines and trial in the above captioned matter, as set forth in this Court’s *Amended Order on Initial Pretrial Conference*, dated July 28, 2014, ECF No. 33. In support of this *Second Stipulated Motion to Vacate Pretrial Deadlines and Trial* the Parties stipulate and state as follows:

1. January 7, 2014, this Court entered its *Order on Initial Pretrial Conference* establishing the following pertinent deadlines: (1) Dispositive Motions and *Daubert* Challenges – August 11, 2104; (2) Dispositive Motions and *Daubert* Challenges Hearing – September 9, 2104; (3) Plaintiff’s Expert Witness Designation – April 28, 2014; (4) Defendants’ Expert Designation – May 28, 2014; (5) Plaintiff’s Rebuttal Designation Deadline – June 16, 2014; (6) Listing of Other Witnesses – June 27, 2014; (7) Discovery Cutoff Date – August 11, 2014; (8) Stipulation as to Facts – September 18, 2014; (9) Final Pretrial Conference – September 30, 2014; (10) Jury Trial – October 20, 2014.

2. On April 29, 2014, this Court entered its *Order Granting Motion for Additional Time for Plaintiffs’ Expert Witness Disclosure* allowing the Plaintiffs to file their expert witness disclosure on May 28, 2014, and allowing the Defendants to file their expert designation on or before June 27, 2014.

3. On or about July 17, the Parties filed their *Stipulated Motion to Vacate Pretrial Deadlines and Trial*, ECF No. 31, seeking this Court’s *Order* vacating the pretrial deadlines and trial in the above captioned matter, as set forth in this Court’s *Order on Initial Pretrial Conference*, dated January 7, 2014.

4. On July 28, 2014, this Court entered its *Amended Order on Initial Pretrial Conference*, ECF No. 33, establishing the following pertinent deadlines: (1) Dispositive Motions and *Daubert* Challenges – January 13, 2105; (2) Responses to Dispositive Motions and *Daubert* Challenges – January 27, 2105; (3) Dispositive Motions and *Daubert* Challenges Hearing – February 6, 2105; (4) Plaintiff's Expert Witness Designation – September 29, 2014; (5) Defendants' Expert Designation – October 29, 2014; (6) Listing of Other Witnesses – December 2, 2014; (7) Discovery Cutoff Date – January 13, 2015; (8) Stipulation as to Facts – February 19, 2015; (9) Final Pretrial Conference – March 4, 2015; (10) Jury Trial – March 23, 2014.

5. Subsequently, on September 29, 2014, Plaintiffs' filed their *Agreed Upon Motion for Additional Time for Expert Witness Disclosures* requesting an extension in which to designate their expert witnesses to October 17, 2014, and providing Defendants' expert witness designation deadline be moved to November 17, 2014. On September 30, 2014, this Court entered its order granting Plaintiffs' *Agreed Upon Motion for Additional Time for Expert Witness Disclosures* thereby setting Plaintiffs' expert designation deadline as October 17, 2014, and setting Defendants' expert designation deadline as November 17, 2014.

6. On November 14, 2014, Defendants Powell Valley Healthcare, Inc., Powell Hospital District No. 1, and Powell Valley Hospital filed their *Unopposed Motion to Extend Defendants' Expert Designation Deadline*, ECF No. 36, seeking an additional thirty (30) days in which to designate their expert witnesses up to and including December 17, 2014. On November 17, 2014, this Court entered its *Order Granting Unopposed Motion to Extend Defendants' Expert Designation Deadline*, ECF No. 37, thereby extending Defendants' expert designation deadline to December 17, 2014.

7. The Parties have been actively engaged in discovery. However, due to scheduling conflicts and attempts by the Parties to reduce the adverse impacts of Independent Medical Examinations on plaintiff, including but not limited to, absence from school, additional time is needed to conduct Independent Medical Examinations which are necessary for Defendants' expert designation. It is anticipated the Independent Medical Examinations will be conducted sometime from December 23, 2014 through January 5, 2015.

8. Furthermore, the Parties believe that additional trial days are necessary. Currently, the trial in this matter is set for five (5) trial days and is stacked third on the docket. (ECF No. 33, pg. 11). The Parties believe in good faith that seven (7) to eight (8) trial days will be required to adequately present this case to the jury. The current trial schedule will not accommodate additional trial days. Upon information and belief, this Court has a current opening to begin on August 10, 2015, which can accommodate the increased trial days necessary to present this case to the jury.

9. The Parties have met and conferred and stipulated to vacating the current trial date and pretrial deadlines, upon the appropriate Court approval and consent. Furthermore, the parties have met and conferred and all parties and counsel are available for a seven (7) to eight (8) day trial beginning on August 10, 2015.

10. As a condition to vacating the current trial date and pretrial deadlines counsel for the Plaintiffs has requested that the Court include in its *Order* that the Parties shall be required to re-convene for mediation by the current trial date, March 23, 2014. The Parties have met and conferred and Defendants have no objection to this condition.

11. The Parties have met and conferred and for the convenience of this Court propose the following deadlines: (1) Dispositive Motions and *Daubert* Challenges – June 1, 2015; (2) Responses to Dispositive Motions and *Daubert* Challenges – June 15, 2015; (3) Dispositive

Motions and *Daubert* Challenges Hearing – June 30, 2015; (4) Defendants’ Expert Designation – January 30, 2015; (5) Plaintiffs’ Rebuttal Designation Deadline – March 2, 2015; (6) Listing of Other Witnesses – April 3, 2015; (7) Discovery Cutoff Date – June 1, 2015; (8) Stipulation as to Facts – July 9, 2015; (9) Final Pretrial Conference – July 21, 2015; (10) Jury Trial – August 10, 2015.<sup>1</sup>

12. Counsel for Defendants, Powell Valley Healthcare, Inc., Powell Hospital District No. 1, and Powell Valley Hospital has conferred with counsel for the State of Wyoming and the State of Wyoming has no objections to this *Motion*.

WHEREFORE, Defendants, Powell Valley Healthcare, Inc., Powell Hospital District No. 1, and Powell Valley Hospital by and through its undersigned counsel of Williams, Porter, Day & Neville, P.C., Defendant Jeffery Hansen, M.D. by and through his undersigned counsel of Crowley Fleck, PLLP, and Plaintiffs, Austin DuRose by and through his Next Friends and Natural Parents William K. DuRose and Mindy E. DuRose, William K. DuRose and Mindy E. DuRose, individually, by and through undersigned counsel of Moyers Law P.C. respectfully request that this Court enter its *Order* vacating the pretrial deadlines and trial in the above captioned matter, as set forth in this Court’s *Amended Order on Initial Pretrial Conference*, dated July 28, 2014, ECF No. 33, and set the trial and pretrial deadlines as set forth herein.

**DATED** this 17th day of December, 2014.

POWELL VALLEY HEALTHCARE, INC., POWELL  
HOSPITAL DISTRICT NO. 1, POWELL VALLEY  
HOSPITAL.

/s/ Brian J. Marvel

Scott E. Ortiz, Wyo. State Bar #5-2550  
Brian J. Marvel, Wyo. State Bar #7-4708

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<sup>1</sup> Plaintiffs have designated their expert witnesses in this case.

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ATTORNEYS FOR THE DEFENDANTS

**DATED** this 17th day of December, 2014.

JEFFERY HANSEN, M.D.

/s/ Christopher C. Voigt  
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ATTORNEYS FOR THE DEFENDANT

**DATED** this 17th day of December, 2014.

AUSTIN W. DUROSE, by and through his Next  
Friends and Natural Parents, William K. and Mindy  
E. DuRose and WILLIAM K. DUROSE and MINDY E.  
DUROSE.

/s/ Alfred F Paoli, Jr  
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ATTORNEYS FOR THE PLAINTIFFS

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that a true and correct copy of the foregoing document was delivered to the Court via the CM/ECF System and served upon counsel via electronic transmission this 17th day of December, 2014.

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/s/ Brian J. Marvel  
Brian J. Marvel